

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

\* \* \* \* \*

Lori T. Harrington,

Plaintiff,

vs.

REPORT AND RECOMMENDATION

Jo Anne B. Barnhart,  
Commissioner of Social  
Security,

Defendant.

Civ. No. 04-4395 (RHK/RLE)

\* \* \* \* \*

This matter came before the undersigned United States Magistrate Judge upon a routine supervision of cases filed in this District, and upon an assignment made in accordance with Title 28 U.S.C. §636(b)(1)(B).

This matter was commenced on October 12, 2004, by the filing of a Complaint, in which the Plaintiff seeks judicial review of a determination of the Defendant which denied her application for Disability Insurance Benefits. On December 3, 2004, as is required by the Local Rules of this District, the Defendant filed her Answer and a certified copy of the Transcript of the Record of the Administrative Proceedings leading to the denial of the Plaintiff's application for benefits. On March 15, 2005, it

having appeared that more than sixty (60) days had passed, and the Plaintiff had not filed her Motion for Summary Judgment as is required by Local Rule 7.2(b)(1) of the Local Rules of this Court, we directed the Plaintiff to show good cause, in writing, within ten (10) days of the date of that Order, for an extension of time in which to file her Motion for Summary Judgment. We warned the Plaintiff that, in the absence of good cause shown, the Court would recommend that this action be dismissed for failure to timely file the Plaintiff's Motion for Summary Judgment, and for failure of prosecution.

To date, over four months after the Defendant filed her Answer and Transcript, and well over the ten days allowed the Plaintiff, in our Order of March 15, 2005, the Plaintiff has failed to file her Motion, or request an extension. Accordingly, we recommend that the Complaint be dismissed for failure to timely file the Plaintiff's Motion for Summary Judgment, for failure to prosecute, and for failure to comply with our March 15, 2005 Order.

NOW, THEREFORE, It is --

RECOMMENDED:

That the Complaint be dismissed for failure to timely file the Plaintiff's Motion for Summary Judgment, and for failure to prosecute.

Dated: April 20, 2005

s/Raymond L. Erickson  
Raymond L. Erickson  
UNITED STATES MAGISTRATE JUDGE

**NOTICE**

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.1(c)(2), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than May 6, 2005**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than May 6, 2005** unless all interested parties

stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.